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October 10, 2013

Your Honor:

I write in reference to the Court's order of yesterday's date granting TruePosition's motion to compel directed against Qualcomm, on the grounds that Qualcomm had not submitted an opposition by the date due under the relevant rules.

Qualcomm respectfully states its understanding that, because TruePosition's motion was served on September 23 by ECF filing, Qualcomm's opposition is due today, Thursday, October 10. Qualcomm has been working diligently on its opposition with a view to filing today.

Qualcomm submits herewith a copy of TruePosition's certificate of service for this motion, which may have been inadvertently confusing as a result of its layout. The certificate accurately states that TruePosition served the motion "by ECF". However, it goes on to state that a supporting declaration and exhibits would be served "by the following means", indicating "by hand" delivery to Qualcomm's counsel, among others. Qualcomm respectfully suggests that the Court may have confused the "by hand" service of the supporting affidavit on September 24 with the service of the motion itself, which was by ECF on September 23. The motion itself was not served by hand. We are authorized to state that counsel for TruePosition agrees with this recitation of the facts concerning the service of TruePosition's motion.

As the Court is aware, pursuant to Fed.R.Civ.P. 6(d) and Local Rule 5.1.2.8(3), service by electronic means "is treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond." (Local Rule 5.1.2.8(3).) Accordingly, Qualcomm respectfully requests that the Court withdraw the October 9 Order granting TruePosition's motion to compel, and make its ruling after

consideration of Qualcomm's opposition, which will be filed today. If the Court deems it appropriate for Qualcomm to file a more formal motion to revise the order pursuant to Local Rule 7.1(g), Qualcomm will of course do so.

Respectfully submitted,



Roger G. Brooks

Honorable Robert F. Kelly
United States Courthouse
601 Market Street, Room 11613
Philadelphia, PA 19106

Encl.

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BY HAND

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BY ELECTRONIC TRANSMISSION

CERTIFICATE OF SERVICE

I, Evelyn R. Protano, hereby certify that on September 23, 2013 I caused true and correct copies of Plaintiff TruePosition, Inc.'s Motion to Compel Discovery Directed to Defendant Qualcomm Inc.; and Declaration of Tuan Nguyen-Huynh, to be served upon the following by ECF. The Declaration of Axel Bernabe with exhibits is being filed under seal by hand in the Clerk's Office today and will be served on counsel on Tuesday, September 24, 2013 by the following means:

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s/Evelyn R. Protano